Saskatchewan Financial Services Commission
Pensions Division

JURISDICTION

Essentially, *The Pension Benefits Act, 1992* applies to all employer-sponsored pension plans with Saskatchewan residents as members. A "plan" means a plan, scheme or arrangement organized and administered to provide pensions and pursuant to which an employer is required to make contributions on behalf of the members.

There are several plans that are not regulated by the Act:

1. Subsection 3(2) of *The Pension Benefits Regulations, 1993* provides that a plan does not include:

    - an employees profit sharing plan or a deferred profit sharing plan as defined in sections 144 and 147 respectively of the *Income Tax Act* (Canada);
    - an arrangement to provide a retiring allowance as defined in subsection 248(1) of the *Income Tax Act* (Canada);
    - the supplemental plan defined in clause 2(1)(hh) of *The Pension Benefits Act, 1992* if, under the plan to which it is supplemental, the members are entitled to benefits from that plan at least equal to the maximum benefit or contribution limit pursuant to the *Income Tax Act* (Canada);
    - that part of a plan which provides benefits or pensions insured under a contract issued pursuant to the *Government Annuities Act* (Canada); and
    - a registered retirement savings plan as defined in section 146 of the *Income Tax Act* (Canada).

2. There are several pension plans established by statute of the Government of Saskatchewan for its own employees which are not subject to the Act, including:

    - Public Service Superannuation Plan (which primarily covers employees of departments and agencies hired prior to 1978);
    - Teachers' Superannuation Plan (which covers teachers hired prior to 1980);
    - SaskPower Superannuation Plan;
    - Liquor Board Superannuation Plan;

- Members of the Legislative Assembly Superannuation Plan; and
- Judges of the Provincial Court Superannuation Plan.

However, it cannot be assumed that all public sector plans are not subject to *The Pension Benefits Act, 1992*. The Public Employees Pension Plan is registered under the Act. The plan covers employees of departments and agencies, as well as employees of many Crown Corporations such as SaskTel and SaskPower, hired after 1977. As well, the Saskatchewan Telecommunications Superannuation Plan is registered.

The Cities of Saskatoon and Regina, the Universities of Saskatchewan and Regina, and the Saskatchewan Association of Health Organizations have registered pension plans. Also, the Capital Pension Plan (which covers employees of several Crown Corporations including SGI), the Municipal Employees' Superannuation Plan and the Saskatchewan Teachers' Retirement Plan (which covers teachers hired after 1979) are registered pursuant to the Act.

3. The federal government has legislation known as the *Pension Benefits Standards Act, 1985*, which is substantially similar to *The Pension Benefits Act, 1992*. The *Pension Benefits Standards Act, 1985* regulates employer-sponsored pension plans with respect to employment in connection with the operation of any work, undertaking or business that is within the legislative authority of the parliament of Canada. For example, the pension plans of firms or companies that are involved in navigation and shipping, railways, canals, telegraph and other works which connect one province to another, steamship lines, ferries between provinces, airlines, radio broadcasting stations and banks are regulated by the *Pension Benefits Standards Act, 1985*.

4. Pension plans for employees of the federal government, including the pension plans for the Canadian Armed Forces and the R.C.M.P., are not regulated by the province.

To complete the discussion on jurisdiction, we should comment on pension plans which are registered outside of Saskatchewan, but which have Saskatchewan members. Of the 1,400 plans in Canada with Saskatchewan members, only about 400 are registered with the Pensions Division.

The Federal Government and all provincial governments, except for Prince Edward Island, currently are party to agreements which provide for a pension plan to be registered in the jurisdiction in which the plurality of members are employed.

In simple terms, the agreements allow one regulator to act on behalf of another. The functions, authorities and duties provided to a regulator by pension benefits legislation

may be delegated to another regulator. The parties to a pension plan - the administrator, the employer and the plan beneficiaries - need only interact with one pension authority. Documents are filed with only one pension authority.

However, the current agreements do not substitute the regulations of one jurisdiction for another. Benefit entitlement concerns continue to be governed by the laws of the jurisdiction in which the member is employed or by federal legislation, if the member is employed in included employment. Therefore, a plan operating in more than one jurisdiction will be subject to differing rules with respect to items such as vesting, portability and survivor benefits. Under the current agreements, the regulator of the jurisdiction of registration is expected to enforce all applicable laws, including those of other jurisdictions where the plan has members in more than one jurisdiction.

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